



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: SeaSpace Corporation--Reconsideration

File: B-252476.3

Date: October 27, 1993

Nancy O. Dix, Esq., Gray, Cary, Ames & Frye, for the
protester.

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DIGEST

Request for reconsideration is denied where the protester
does not show that prior decision denying its protest
contained any errors of fact or law or present information
not previously considered that warrants reversal or
modification of our decision.

DECISION

SeaSpace Corporation requests reconsideration of our
decision in SeaSpace Corp., B-252476.2, June 14, 1993,
93-1 CPD ¶ 462, in which we denied its protest of the award
of a contract to Global Imaging, Inc. under request for
proposals (RFP) No. 52ABNW-2-00079, issued by the National
Oceanic and Atmospheric Administration (NOAA) for high
resolution picture transmission (HRPT) image processing
subsystems (HIPS).

We deny the request for reconsideration.

BACKGROUND

The RFP sought proposals for two HRPT/HIPS systems for use
by the National Weather Service's forecast offices in
Honolulu, Hawaii, and Redwood City, California. These
systems process data obtained from polar-orbiting
meteorological satellites used in connection with NOAA's
weather forecasting and warnings program. The RFP
contemplated the award of a firm, fixed-price contract to
provide a basic HIPS system at each location, with up to

five 1-year options for certain training and maintenance services.¹

Offerors were required to submit separate technical and price proposals. Section M of the RFP listed the following technical evaluation factors in descending order of importance: 1) proposed hardware/workstations; 2) software; 3) proposed downlink system; 4) ability to meet the government's desired delivery date; 5) personnel training; and 6) past performance of proposed system in similar applications.²

The RFP stated that technical quality was substantially more important than price. Offerors were advised, however, that award would not necessarily be made for "capabilities that appear to exceed the government's minimum requirements"; the RFP also cautioned that award "will not necessarily be made to the lowest price proposed." Award was to be made to the offeror whose proposal was most advantageous to the government, price and other evaluation factors considered.

Three firms, including the protester and the awardee, responded by the time set for receipt of proposals.³ A source evaluation board (SEB) evaluated the initial technical proposals by assigning numerical ratings for each factor and subfactor in the RFP, for a maximum possible score of 2,500 points. Price proposals were evaluated separately. Consistent with the RFP's announcement that technical quality would be considered substantially more important than price, the SEB assigned a score of 75 points to the technical proposal earning the highest point score and 25 points to the lowest-priced proposal, thus achieving a 3:1 technical/price ratio. The SEB assigned proportionately weighted scores to the remaining technical and price proposals.

¹Each HIPS consists of four major components: (1) tracking antenna; (2) ingest computer and synchronizer; (3) main processor; and (4) two work stations for forecaster access and display.

²For each evaluation area, the RFP listed several subfactors to be evaluated. The RFP stated that the subfactors listed under factor No. 1 were of equal weight; and that factor Nos. 2 and 3, and factor Nos. 4 and 5 were also of equal weight.

³The RFP permitted offerors to submit alternate proposals, and SeaSpace submitted two proposals offering a HIPS based on a "Hewlett Packard 750" and a "Hewlett Packard 730," two different types of computer hardware, hereinafter referred to as HP 750 and HP 730, respectively.

Based on the results of the initial evaluation, the SEB rejected one proposal as technically unacceptable, retaining only the proposals submitted by SeaSpace and Global for further consideration. Based on questions generated by the SEB and the contracting officer, the agency conducted several rounds of discussions with both offerors and rescored proposals with the following results:⁴

	Technical Points	Weighted Score	Price	Price Score	Total Score
Global	1,825.9	75	\$1,169,405	19	94
SeaSpace (HP 755)	1,615.9	66	1,123,395	19.75	85.75
SeaSpace (HP 735)	1,582.9	64.5	896,746	25	89.5

By letters dated January 19, 1993, the agency informed both offerors that all discussions were concluded and requested best and final offers (BAFO). Although both firms submitted BAFOs, since neither offeror made any further changes to its technical or price proposal, their respective scores remained unchanged. Based on the results of the final evaluation and the SEB's recommendation, the contracting officer determined that Global's proposal was most advantageous to the government, and awarded the contract to that firm on February 18. SeaSpace filed its protest in the Office on February 25, which it supplemented on March 12, following a debriefing by the agency.

In its protests, SeaSpace raised numerous allegations, including that NOAA improperly failed to evaluate competing proposals in accordance with the criteria announced in the RFP.⁵ As relevant to its reconsideration request, the protester argued that the SEB improperly downgraded SeaSpace's proposal because its system was incorrectly perceived by the SEB as not being "compatible" with other NOAA systems, even though the RFP did not require compatibility.

⁴For a more detailed explanation of the discussion questions and preliminary evaluation results following each round of discussions, see SeaSpace Corp., B-252476.2, at 4-6.

⁵SeaSpace also alleged that NOAA failed to conduct meaningful discussions with SeaSpace and that the SEB was improperly weighted in favor of the awardee. We found these allegations to be without merit. SeaSpace does not request reconsideration of these aspects of our decision.

The protester's "compatibility" allegation relates to the following requirement under part 4.2 of the RFP regarding the user interface characteristics of the required system:

"The main processors and workstations shall meet the following minimum standards and requirements:

'1. The display format shall conform to the UNIX X-Window X-11, Version 4, standard (X11R4), The window manager must be motif.'" [Emphasis added.]

In response to this requirement, SeaSpace submitted with its proposal a reference manual stating that its proposed "XVU user interface is based on an enhanced version of the LXT Toolkit . . . Applications based on this toolkit are not as prevalent as applications based on OSF Motif." In view of the specific RFP requirement, the SEB found that this statement needed explanation, and in a letter dated December 7, 1992, NOAA specifically asked SeaSpace to provide further clarification and documentation regarding its proposed window manager. On December 9, SeaSpace responded to the SEB's concern as follows:

"While 'xvu' is not based on the Motif Toolkit, 'xvu' does run nicely under the Motif window managers 'mwm' and 'vewm.' In fact, 'xvu' was demonstrated in the SeaSpace office to [NOAA] representatives on November 5, 1992, running under 'vewm.' Therefore, in clarification, the window manager is Motif."

The SEB concluded that SeaSpace's response was vague and did not alleviate its concern that the window manager SeaSpace proposed was not "Motif" as required by the RFP. NOAA continued to correspond with the protester in an effort to clarify this issue, and in a letter to SeaSpace dated January 13, 1993, the contracting officer expressed the SEB's concern regarding the Motif requirement as follows:

"In your December (9), 1992, response as to whether the window manager is MOTIF, you stated that 'in clarification, the window manager is MOTIF.' Yet, in the January 6, 1993, response, you proposed short and long-term fixes to conform to the true MOTIF window manager style guide. This response means that the proposed software is similar to, but not true MOTIF. . . . Without skirting the issue, is your software running under true MOTIF or isn't it?"

In response, SeaSpace stated that its "currently offered software is not written using the Motif toolkit, and therefore is not a Motif application." SeaSpace also stated

that "in view of the increased popularity of Motif, SeaSpace had decided to restructure XVU (SeaSpace's proposed tool kit) so as to adopt many of the functional standards found in the Motif style guide by the beginning of spring, 1993." Based on SeaSpace's response, the SEB members unanimously reduced the protester's score under evaluation factor No. 2, proposed software. We concluded that given the specific requirement in the RFP for the window manager to be Motif and in view of SeaSpace's indirect and apparently conflicting responses to NOAA's repeated inquiries in this regard, it was reasonable for the SEB to question whether SeaSpace's proposal complied with the Motif requirement. Accordingly, we concluded that the SEB reasonably reduced the protester's scores under factor No. 2, proposed software.

RECONSIDERATION REQUEST

The protester argues that we erred in concluding that SeaSpace's window manager did not meet the RFP's Motif requirement. In support of its contention, the protester asserts that both SeaSpace and the awardee proposed Hewlett-Packard hardware, and the window manager was provided by Hewlett-Packard as part of the hardware package. SeaSpace maintains that since both offerors proposed the same window manager software, NOAA improperly concluded that only SeaSpace did not comply with the Motif requirement, and improperly determined that Global's software package overall was superior to SeaSpace's. The protester also argues that the award to Global at a higher price than SeaSpace proposed was improper.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1993). SeaSpace's repetition of arguments made during our consideration of its original protests and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

As explained in our decision, our Office does not evaluate proposals de novo; our review of an allegedly improper evaluation is limited to determining whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454. Here, rather than finding that the protester's window manager did not meet the RFP's Motif requirement, as SeaSpace argues, we concluded that in view of the protester's seemingly conflicting responses, quoted above, to NOAA's repeated inquiries in this regard, it was

reasonable for the SEB to question whether SeaSpace's proposal complied with the Motif requirement.

Our review of the record revealed that although the RFP required the window manager to be "Motif," and SeaSpace was repeatedly requested to verify that its proposal complied with that requirement, SeaSpace's responses revealed potential difficulties in using its proposed software. For instance, although SeaSpace proposed short- and long-term solutions to converting its window manager to Motif, the SEB concluded that those solutions were inadequate since they would take several months to develop and implement, and SeaSpace offered no firm commitment as to when the needed changes would occur. Accordingly, we found that the SEB reasonably reduced the protester's scores under factor No. 2, proposed software.

In its reconsideration request SeaSpace explains that what NOAA perceived as seemingly conflicting responses regarding the Motif issue in fact were responses to separate questions posed by the agency. SeaSpace states that in addition to seeking clarification with respect to the window manager software, NOAA also requested SeaSpace to clarify whether its application software, called "XVU," complied with Motif. In its responses to these questions, SeaSpace asserts, it explained that its "XVU was compatible with but was not based on the Motif Toolkit, while reaffirming on several occasions that the window manager program was MOTIF, thus meeting the RFP requirement," and that it intended to restructure its XVU to be Motif in the future.

Based on the agency's several rounds of discussion questions, it should have been clear to SeaSpace that the SEB had serious concerns over whether SeaSpace's proposal complied with the window manager Motif requirement. NOAA found that, rather than responding to the agency's concerns, SeaSpace's lengthy responses contained several inconsistencies and seemed to "skirt the issue," reasonably raising doubts in the evaluators' minds that SeaSpace's proposal complied with the Motif requirement. The protester's explanation here notwithstanding, SeaSpace had ample opportunity to address directly and concisely the agency's concern regarding that issue, as well as other weaknesses in its proposal, during the several rounds of discussions that occurred here, and simply failed to do so.

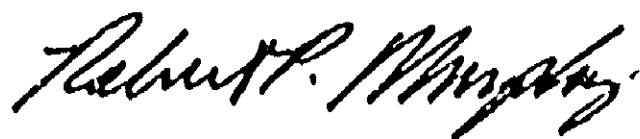
The protester states that the two competitors (Global and SeaSpace) offered to furnish the same window manager provided by Hewlett-Packard and that the agency should have scored both equally under the software evaluation factor. While both firms may have offered the same window manager software, the protester's initial proposal was ambiguous concerning compliance with the Motif requirement. The

protester did not resolve this ambiguity and, as a result, the agency reasonably downgraded its proposal in this area, notwithstanding the offer of the same window manager.

SeaSpace also argues that the award to Global at a higher price than SeaSpace proposed was improper. In negotiated procurements, an agency has broad discretion in determining the manner and extent to which it will make use of the results of its technical and cost evaluations. There is no requirement that award be made on the basis of lowest price unless the RFP so specifies. Spectra Tech., Inc., Westinghouse Elec. Corp., B-232565, B-232565.2, Jan. 10, 1989, 89-1 CPD ¶ 23. An agency may award to an offeror with a higher technical score and higher price where it reasonably determines that the price premium is justified considering the technical superiority of the awardee's proposal, and the result is consistent with the evaluation criteria. See Hercules Engines, Inc., B-246731, Mar. 19, 1992, 92-1 CPD ¶ 297. Such an award decision, especially within the context of a best value procurement where the RFP specifically states that technical quality is substantially more important than price, clearly is unobjectionable. See Pathology Assocs., Inc., B-237208.2, Feb. 20, 1990, 90-1 CPD ¶ 292.

SeaSpace's responses to NOAA's questions reasonably raised concerns that SeaSpace's proposed system did not comply with the RFP's motif requirement. Based on the SEB's conclusions, the contracting officer determined that Global's proposal was so technically superior that, despite SeaSpace's lower prices, Global's proposal was most advantageous to the government. Since the RFP stated that technical quality was substantially more important than price, there is no basis to object to the award to Global.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel